

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD AGEE, JR. et al.,

Plaintiffs,

v.

JOCELYN BENSON, et al.,

Defendants.

Case No. 1:22-CV-00272-PLM-RMK-JTN

**THE PARTIES' JOINT MOTION FOR
LEAVE TO PERMIT COMMISSION
DEFENDANTS TO TAKE CERTAIN
DEPOSITIONS AFTER THE CLOSE OF
DISCOVERY**

The parties, in support of their Joint Motion for Leave to Permit Defendants Michigan Independent Citizens Redistricting Commission, Douglas Clark, Juanita Curry, Anthony Eid, Rhonda Lange, Steven Terry Lett, Brittni Kellom, Cynthia Orton, M.C. Rothhorn, Rebecca Szetela, Janice Vallette, Erin Wagner, Richard Weiss, and Dustin Witjes, each in his or her official capacity as a Commissioner of the Commission (collectively, the "Commission") to Take Certain Depositions After the Close of Discovery, state as follows:

1. Under the Court's Case Management Order, discovery is to be completed by April 14, 2023. (ECF No. 38, PageID.507).

2. On March 24, 2023, counsel for the Commission emailed counsel for Plaintiffs regarding the availability of Plaintiffs' experts for depositions in April 2023, and on March 28, 2023, the Commission served a notice of deposition of Plaintiffs' expert Mr. Sean P. Trende, scheduling his deposition for Wednesday, April 12, 2023.

3. Mr. Trende is not available to be deposed on April 12, 2023. However, Mr. Trende is available on April 18, 2023.

4. On March 28, 2023, Plaintiffs served an affidavit of LaMar Lemmons III as a supplemental disclosure to Plaintiffs' Initial Disclosures.

5. On March 30, 2023, the Commission issued a subpoena for deposition testimony and for documents to LaMar Lemmons III, setting the deposition for Thursday, April 13, 2023.

6. Mr. Lemmons is not available to be deposed on April 13, 2023, or on April 12, 2023, or April 14, 2023, but is available on April 20, 2023.

7. The Court's Case Management Order states, “[a]ll depositions must be completed before the close of discovery.” (ECF No. 38, PageID.508).

8. The Court's Case Management Order further states, “[t]here shall be no deviations from this order without prior approval of the court upon good cause shown.” *Id.*

9. The parties agree that the Commission should have the opportunity to depose Mr. Trende and Mr. Lemmons.

10. Good cause therefore exists for a minor deviation from the Court's Case Management Order to permit the Commission to take the depositions of Mr. Trende and Mr. Lemmons.

WHEREFORE, the parties request that the Court enter an Order granting the Commission leave to take the depositions of Plaintiffs' expert Sean P. Trende and of LaMar Lemmons III on or before April 20, 2023.

Dated: April 4, 2023

Respectfully submitted,

/s/ John J. Bursch (per email auth. 4/4/23)

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CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2023, a true and correct copy of the foregoing was filed via the Court's CM/ECF system and served via electronic filing upon all counsel of record in this case.

/s/ Nathan J. Fink

Nathan J. Fink